



Office of the City Attorney

241 W. South Street
Kalamazoo, MI 49007-4707
(269) 337-8185
Fax (269) 337-8922
www.kalamazoocity.org

October 19, 2017

Michael Berkoff
Remedial Project Manager
U.S. EPA Region 5-Mail Code: SR-6J
Superfund Division
Remedial Response Section #3
77 West Jackson Street
Chicago, IL 60604

Re: City of Kalamazoo Comments on Allied Paper Superfund Site Remedial Design Work Plan as submitted by the Lyondell Environmental Custodial Trust

Dear Mr. Berkoff:

Please accept the following as the comments by the City of Kalamazoo (City) on the proposed Remedial Design Work Plan (RDWP) dated August 31, 2017 as submitted to the U. S. Environmental Protection Agency Region 5 by the Lyondell Environmental Custodial Trust (Trust) through Mr. Andrew Steinberg on September 5, 2017 for Operable Unit 1 (OU-1), the Allied superfund Site in Kalamazoo, Michigan.

Overall the scope of work under the RDWP as submitted by the Trust is very complete and appears to address the overall design work needed to delineate appropriate site conditions and seeks to ensure that a workable design is prepared which can be appropriately implemented. Given the historical investigations at the Allied Paper Superfund Site (OU-1) and the extensive work already performed in relation to the adjacent Panelyte property, there is considerable data available for review and use for the remedial design,

In reviewing the documents provided by the Trust, the City asserts that the items addressed in more detail below need to be addressed at some point in the Remedial Design/Remedial Action (RD/RA) activities that will be performed at OU-1.

All section and page references in the City's comments are to the following document:

Remedial Design Work Plan *Allied Paper Superfund Site*
Operable Unit 1, Allied Landfill
Kalamazoo, Michigan

Prepared for: **Lyondell Environmental Custodial Trust**
35 E. Wacker Drive, Suite 690
Chicago, IL 60601

Prepared by: **Tetra Tech, Inc.**
710 Avis Drive, Suite 100
Ann Arbor, MI 48108

Revision 0: August 31, 2017

Comment Item 1 Deep Aquifer Concern

Under Section 2.4 “Nature and Extent of Contamination” and, more specifically, at subsection 2.4.2, on page 19, the RDWP refers to previous groundwater investigations done at OU-1 (see also pages 12 and 13 that reference the 2009 Arcadis and 2014 CH2MHILL studies under the subsection 2.1.3 “Hydrology and Hydrogeologic Setting) and the strong presumption that the groundwater gradient from the deeper aquifer (where City wells are drawing from) is upward and hence not susceptible to contamination from OU-1.

The City and USEPA have disagreed in the past as to whether a strong presumption of an upward gradient from the deeper aquifer to the upper aquifers across the entire site is valid and whether such a strong presumption is reliable given the lack of specific data from the deeper aquifer at OU-1. The studies giving rise to this presumption have relied upon hydrogeological data for the deeper aquifer from locations at least 0.5 miles distant from the Site, not the Site itself, giving rise to doubts as to their applicability to the Site. Given that OU-1 (and Panelyte) are within a Michigan Department of Environmental Quality-approved Wellhead Protection Area for the City of Kalamazoo, this expressed concern is consistent with the objectives of federal, state, and local Wellhead Protection Program objectives to protect groundwater-based public water supply systems from becoming contaminated by known and potential sites of contamination.

The City recommends that the RDWP take into account the need for more site-specific data related to the deep aquifer at OU-1 and that such data be collected during the Remedial Design (RD) phase so that the Long Term Monitoring (LTM) network of wells that will be established once the RA is completed can be adequately created to ensure protection of the deeper aquifer and potential migration/contamination. The City also recommends that City staff be consulted during the LTM network development process to provide appropriate information regarding the City’s Wellhead Protection Program and ongoing groundwater monitoring efforts in the area.

1. The first part of the document is a list of names and their corresponding addresses.

2. The second part of the document is a list of names and their corresponding addresses.

3. The third part of the document is a list of names and their corresponding addresses.

4. The fourth part of the document is a list of names and their corresponding addresses.

5. The fifth part of the document is a list of names and their corresponding addresses.

Comment Item 2 Panelyte Site

Under Section 3.3 “Summary of Remedial Action Components”, (and specifically under subsection 3.3.3 “Consolidation of Excavated Materials Into On-site Landfill, Capping, and Landfill Gas Management”), the RDWP states: “Excavated materials will be consolidated into an on-site landfill, encompassing approximately 27 acres with a sufficient setback from Portage Creek to provide an adequate buffer.” (See page 26 of the RDWP). There have been ongoing discussions between the USEPA, the Trust, City, and State of Michigan stakeholders regarding the City obtaining the Panelyte Site adjacent to, and impacted directly by contaminants which have migrated from OU-1. These discussions have included using portions of the Panelyte Site, once it is obtained by the City from the State of Michigan Land Bank, for portions of the on-site landfill or possibly as the location for an active landfill gas collection system and/or for a site-wide storm water management system. Given these discussions and the need under the RDWP to determine where to possibly locate these items, it would be prudent to include more site investigation work on the Panelyte Site (notably, but not limited to, the portion generally called the “Panelyte Marsh”) to determine the suitability of using this area for these items.

The City recommends that the RDWP include appropriate and detailed investigation of the Panelyte Site, and in particular, the Marsh area to determine its suitability for use for part of the onsite landfill, the active landfill gas management system, and a site-wide storm water management system for OU-1. This investigation is critical, given the mention of drums and their unknown contents in previous studies, in considering any future use of the Panelyte Site and potential City liabilities in taking ownership of the Site.


Comment Item 3 City Ownership of Remediated Site

Under Section 5.3 “PROJECT ROLES AND RESPONSIBILITIES – City of Kalamazoo (page 40 of the RDWP), it states: “The City of Kalamazoo has expressed interest in owning the land within OU1 that is currently owned by the Trust and State of Michigan. As a potential future land owner, the City would be responsible for long term stewardship and operation and maintenance of OU1.” This may be a correct assumption and a preferred result, however we are a long way from such an ownership transfer. Are there contingent plans in place and should they be specifically detailed in the RDWP, if the City does not assume ownership of OU-1?

The City recommends that the RDWP address the issue of long term stewardship regardless of future ownership as well as with the assumption that the City may assume such ownership.

Additionally, the City recommends that the main contact person for the City be Jerome Kisscorni, Assistant City Manager, and not Clyde Robinson, City Attorney.

Sincerely,

A handwritten signature in black ink that reads "Clyde J. Robinson". The signature is written in a cursive, slightly slanted style.

Clyde J. Robinson
City Attorney

CJR/lje

Cc: Grant Gilezan
Bruce Merchant
Jerome Kisscorni
Eric Kemmer
Andrew Steinberg